

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

UNITED STATES OF AMERICA,	)	CR 10-22-M-DWM
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
DAVID PALUMBO,	)	
	)	
Defendant.	)	
_____	)	

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on August 5, 2010. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm

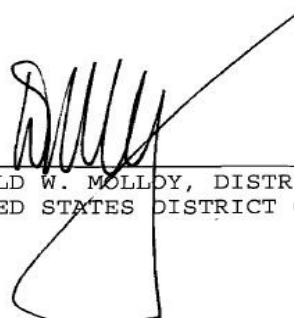
conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Palumbo’s guilty plea after Palumbo appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his pleas of guilty to Counts II (possession with intent to Distribute Cocaine) and III (possession of a firearm in furtherance of a drug trafficking crime) of the Indictment filed against him. In exchange for Defendant’s pleas, the United States has agreed to dismiss Count I of the Indictment.

I find no clear error in Judge Lynch’s Findings and Recommendation (dkt # 35) and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that David Palumbo’s motion to change plea (dkt # 29) is GRANTED.

DATED this 8<sup>th</sup> day of September, 2010.



DONALD W. MOLLOY, DISTRICT JUDGE  
UNITED STATES DISTRICT COURT